

wise dismissed if they should prove unworthy of trust.

With free institutions, a salubrious climate, a fertile soil and bountiful crops, for which blessings we should reverently thank the Giver of all good—our destiny is in our own hands, and if we wisely and conscientiously do our duty we have a future of assured prosperity.

Such particular measures as may be thought of sufficient importance to engage the attention of the Legislature will be called to your notice by the honored chief magistrate, who has just received a signal proof of the people's esteem, and it is my earnest hope that we may find it consistent with our views of duty to give all his recommendations a hearty support, not allowing prejudice of party, section or class to bias our judgement but determined to take that enlarged and important view of public affairs which will make us proper representatives of a free and intelligent people."

NINTH DAY.

SENATE CHAMBER, }
AUSTIN, Texas, Jan. 22, 1891. }

The Senate met pursuant to adjournment.

Lieutenant-Governor Pendleton in the chair.

Roll call.

Quorum present.

The following Senators answering to their names:

PRESENT.

Clemens,	Johnson,	Seale,
Crane,	Kearby,	Simkins,
Carter,	Kimbrough,	Stephens,
Cranford,	Lubbock,	Sims,
Frank,	McKinney,	Tyler,
Floch,	Maetze,	Townsend,
Glascock,	Page,	Whatley,
Ingram,	Potter,	Weisler,

ABSENT.

Atlee,	Clark,	Harrison,
Burney,	Garwood,	Mott,
		Pope,

Prayer by the chaplain, Dr. Smoot.

On motion of Senator Page Senator Simkins was marked "present" at roll call, being on committee duty.

On motion of Senator Stephens the reading of the journal was dispensed with.

On motion of Senator Kimbrough Senator Harrison was excused.

On motion of Senator Frank Senator Seale was excused for yesterday on account of sickness.

On motion of Senator Tyler Senator Atlee was excused indefinitely on account of sickness.

Senator Page asked if a president pro tem had been elected.

Senator Townsend moved that a president pro tem be elected next Monday.

Senator Kimbrough asked why not elect today.

Senator Stephens said that the secretary wished to have letter heads printed for the use of the Senate, which could not be done until a president pro tem was elected.

Senator Page made a motion that a president pro tem be elected today, which was

Adopted.

Senator Kimbrough placed in nomination for president pro tem. Senator Cranford. Senator Tyler seconded the nomination. Senator Townsend proposed that the vote be taken by acclamation.

The President explained that this could not be done, and read from the constitution.

The President appointed as tellers Senators Potter and Page.

The ballots being counted, the result was:

Cranford, 20.

Scattering, 2.

Senator Frank moved to make the vote unanimous, which was adopted.

Senator Townsend made the following report:

COMMITTEE ROOM, }
Austin, Jan. 21, 1891. }

Hon. Geo. C. Pendleton, President of the Senate:

Sir—Your committee on Judicial Districts have had under consideration Senate Bill No. 70 entitled "An act to amend section 1 of an act entitled 'an act to amend an act to amend an act entitled 'an act to redistrict the state into judicial districts and fix the times for holding court therein and to provide for the election of judges and district attorneys in said districts at the next general election to be held on the first Tuesday after the first Monday in November, 1884,' approved April 9, 1883; approved March 24, 1885,' to create the Forty-third judicial district of the state of Texas, fix the times for holding court therein, and to provide for the appointment of a district judge for said district;' approved March 30, 1887; to create the Forty eighth judicial district of the state of Texas, fix the times of holding court therein, and to

fix the times for holding court in the Seventeenth judicial district of the state of Texas, and to provide for the appointment of a district judge of the said Forty-eighth judicial district."

And instruct me to report it back to the Senate with the recommendation that it do pass.

M. H. TOWNSEND,
Chairman.

Senator Clemens offered the following resolution:

Resolved, That the lieutenant governor's room be furnished at a cost not to exceed one hundred dollars, to be paid out of the contingent fund of the Twenty-second Legislature.

A second reading was called for.

The resolution was read a second time and

Adopted.

BILLS AND RESOLUTIONS.

By Senator Glasscock:

A bill to be entitled "An act to amend article 4256, chapter 10, title 84, of the revised civil statutes as amended by the called session of the Seventeenth Legislature, chapter 4, approved April 14, 1882.

Referred to committee on Internal Improvements.

By Senator Clemens:

A joint resolution to amend section 4, article 6, of the constitution of the State of Texas relating to suffrage.

Referred to committee on Constitutional Amendments.

By Senator Glasscock, (by request):

A bill to be entitled, "An act to incorporate the city of Austin and to grant a new charter."

Referred to committee on Incorporated Cities and Towns.

By Senator McKinney:

A bill to be entitled, "An act amending article 2402 of the revised civil statutes relating to the fees of county commissioners."

Referred to committee on State Affairs.

By Senator Potter:

A bill to be entitled, "An act to amend article 4238 of the revised statutes of the State of Texas as amended by the act of the Twenty-first Legislature, entitled, "An act to amend article 4238 of revised statutes, approved April 8, 1889, so as to make the same provide for necessary depot facilities at all points where the same are necessary for the public convenience.

Referred to the committee on Internal Improvements.

By Senator McKinney:

A bill to be entitled "An act to regulate the disbursement of all money belonging to the several counties of this state, and to prevent the use of same for purposes unauthorized by law."

Referred to Judiciary committee No. 1.

Senator Carter made the following report:

COMMITTEE ROOM,
Austin, Jan. 21, 1891.

Hon. George C. Pendleton, President of the Senate:

Sir—Your Judiciary committee No. 1, to whom was referred Senate bill No. 91, being "An act to amend article 521, of the revised statutes of Texas,"

Have had the same under consideration, and I am instructed to report the same back with the recommendation that it do pass.

CARTER,
Acting Chairman.

Senator Townsend made the following report:

COMMITTEE ROOM,
Austin, Jan. 21, 1891.

Hon. Geo. C. Pendleton, President of the Senate:

Sir—Your committee on Judicial Districts have had under consideration Senate bill No. 98, entitled "An act to fix the time for holding the district court in the Twenty-fourth judicial district," and instruct me to report the same back to the Senate with the recommendation that it do pass.

M. H. TOWNSEND,
Chairman.

Senator Carter made the following report:

COMMITTEE ROOM,
Austin, Jan. 21, 1891.

Hon. George C. Pendleton, President of the Senate:

Sir—Your Judiciary committee No. 1, to whom was referred Senate bill No. 85, being "An act to amend chapter 1, title 17, of the revised civil statutes of the State of Texas, by the addition of article 340c, to remedy defects in the manner of incorporation of cities and towns, etc."

Have had the same under consideration, and I am instructed to report the same back to the Senate with the recommendation that it be referred to Judiciary committee No. 2.

CARTER,
Acting Chairman.

The bill was referred to Judiciary committee No. 2.

Senator Carter made the following report:

Hon. George C. Pendleton, Lieutenant Governor.

Your Judiciary Committee No. 1, to whom was referred Senate bill No. 12, instruct me to report same favorably, with the recommendation that it do pass.

[Signed]

CARTER,
Acting Chairman.

Senator Johnson made the following report:

COMMITTEE ROOM,
Austin, Jan. 21, 1891. }

To the Hon. George C. Pendleton,
President of the Senate:

Your committee on Internal Improvements have had under consideration Senate Bill No. 26, entitled "An act to relieve railroad companies chartered under the revised statutes of Texas which have in good faith constructed any part of their roads prior to the first day of January, 1889, from the operation of articles 605 and 4278 of the revised statutes as to the roads so constructed," and also

Senate Bill No. 55, entitled "A bill for the relief of the railroad companies chartered since January 1, 1889."

And instruct me to report that these two bills, to-wit: Nos. 26 and 55, be reported back to the Senate with recommendation that they be considered in connection with Senate Bill No 29.

JOHNSON,
Chairman.

Senator Carter made the following report:

COMMITTEE ROOM,
Austin, Jan. 21, 1891.

Hon. George C. Pendleton, President of the Senate.

Sir—Your Judiciary committee No. 1, to whom was referred Senate bill No. 34, being "An act to amend article 3014, chapter 1, title 57, of the Revised Civil Statutes of the State of Texas," relating to the exemption of firemen from jury duty, have had the same under consideration, and I am instructed to report the same back to the Senate, with the recommendation that it do pass.

CARTER,
Acting Chairman.

Senator Carter made the following report:

COMMITTEE ROOM,
Austin, Jan. 21, 1891.

Hon. George C. Pendleton, President of the Senate:

Sir—Your Judiciary committee No. 1,

to whom was referred Senate bill No. 18, being "An act to amend article 1133 of the revised statutes, by adding thereto article 1133a, prescribing qualifications of county judges,"

Have had the same under consideration, and I am instructed to report the same back to the Senate with the recommendation that it do pass.

CARTER,
Acting Chairman.

Senator Johnson made the following report:

COMMITTEE ROOM,
Austin, Jan. 21, 1891.

To the Hon. George C. Pendleton,
President of the Senate:

Your committee on Internal Improvements have had under consideration Senate bill No. 29, entitled, "An act for the relief of railway companies having charters made or amended since January 1, 1887, which have failed or are about to fail to comply with article 4278 of the revised statutes,"

And instruct me to report the same back to the Senate with the recommendation that the same do pass.

JOHNSON,
Chairman.

Senator Townsend made the following report:

COMMITTEE ROOM,
Austin, Jan. 21, 1891.

Hon. George C. Pendleton, President of the Senate:

Sir—Your committee on Judicial Districts have had under consideration Senate bill No. 16, entitled "An act to prescribe the times for holding the terms of the district court in the Forty-sixth Judicial district and to repeal all laws and parts of laws in conflict therewith,"

And instruct me to report the same back to the Senate with the recommendation that the same do pass.

M. H. TOWNSEND,
Chairman.

At the request of Senator Johnson, the secretary read rule 21.

Construction of the rule was debated by Senators Sims, Clemens, Johnson, Lubbock, Page, Kearby and others.

Senator Johnson moved that the rule be enforced, except that part of it which rules that no senator shall move from or change his seat while another is speaking, which shall only be enforced if it becomes disorderly. This motion was debated until Senator Johnson, at the request of the Presi-

dent, withdrew the motion.

On motion of Senator Kimbrough, Senate bill No. 29 was made special order for to-morrow after other special orders.

ORDER OF THE DAY.

Senate bill No. 17 was read first time with report of the committee recommending that it do pass, with amendments.

Senator Stephens moved to strike out amendments.

Senator Glasscock called for division of the question. The question was divided and debated.

The following messages were received from His Excellency, the Governor:

EXECUTIVE OFFICE, }
Austin, January 21, 1891.

To the Senate of the State of Texas:

I ask your advice and consent to the appointment of George W. Smith to the office of Secretary of State of the state of Texas.

Respectfully,
J. S. Hogg,
Governor of Texas.

EXECUTIVE OFFICE, }
Austin, January 21, 1891.

To the Senate of the State of Texas:

I ask your advice and consent to the appointment of L. L. Foster to the office of "Commissioner of Agriculture, Insurance, Statistics and History."

Respectfully,
J. S. Hogg,
Governor of Texas.

THE STATE OF TEXAS, }
EXECUTIVE OFFICE,
Austin, January 22, 1891.

To the Senate of the State of Texas:

I ask your advice and consent to the appointment of R. M. Sweringen to the office of Health Officer of the State of Texas.

Respectfully,
J. S. Hogg,
Governor of Texas.

THE STATE OF TEXAS, }
EXECUTIVE OFFICE,
Austin, January 22, 1891.

To the Senate of the State of Texas:

I ask your advice and consent to the appointment of W. H. Mabry to the office of Adjutant General of the State of Texas:

Respectfully,
J. S. Hogg,
Governor of Texas.

EXECUTIVE OFFICE, }
January 22, 1891.

To the Senate of the State of Texas:

I ask your advice and consent to the appointment of D. P. Marr to the office of

Judge of the Commission of Appeals of the State of Texas.

Respectfully,
J. S. Hogg,
Governor of Texas.

Senator Johnson offered the following amendment to the bill before the Senate:

Amend by inserting after the words "depositions" in the first committee amendment the words "except when the witness resides without this State, or where the witness is aged or infirm and unable by reason thereof to attend the trial," which was

Adopted.

The question recurring to the motion to strike out the second amendment, Senator Potter offered the following amendment:

Amend by adding to last line of committee report, "If the defendant shall make affidavit that he believes said witness knows facts material to him and not testified to in such depositions."

Lost.

On motion of Senator Garwood, the enacting clause of the bill was stricken out. Senator Stephens moved to reconsider the vote.

Senator Townsend moved to lay the motion to reconsider on the table.

Ayes and noes called for.

The motion to lay on the table was lost by the following vote:

YEAS—5.

Garwood,	Ingram,	Lubbock,
	Johnson,	Townsend,

NAYS—19.

Clemens,	Glasscock,	Page,
Crane,	Kearby,	Seale,
Carter,	Kimbrough,	Stephens,
Cranford,	McKinney,	Sims,
Frank,	Maeize,	Tyler,
Finch,	Potter,	Whatley,
		Weisiger.

ABSENT—7.

Atlee,	Clark,	Mott,
Burney,	Harrison,	Pope,
		Simkins.

Senator Stephens asked that his motion to reconsider be spread upon the Journal.

Senator Maetze made the following report:

• COMMITTEE ROOM, }
AUSTIN, Jan. 22, 1891. }

Hon. George C. Pendleton, President of the Senate:

Your Committee on Rules, to whom was recommended the resolution of Senator Tyler.

Resolved, That Rule 62 be amended so as to hereafter read as follows:

Rule 62. On the call of three members for the yeas and nays on any question, they shall be taken, and each member, upon his name being called, unless excused by the Senate, shall, without debate, answer yea or nay.

Has had the same under consideration, and reports back the original resolution with the recommendation that it be adopted.

E G. MAETZE,
Chairman.

Adopted.

The order of the day being the consideration of Senate resolution No. 4,

Senator Page moved that it be postponed until tomorrow at 11 o'clock without prejudice to its place on the calendar.

Senate bill No. 3 was read first time with the report of the committee recommending that it do pass.

Senator Frank asked if the bill could be taken up this morning without a three-fourths vote, it having been reported this morning.

Senator Kimbrough thought that the appointments of the governor, some of which had just been read, should not be read in open senate.

Senator Tyler explained that such had been the custom, and he defended the custom. It was the question of confirmation or rejection of the nominations only that should be confined to the executive session. The people had a right to know who were appointed, whether they were confirmed or not.

Senator Carter moved to go into executive session.

Senator Cranford asked that Senate bill No. 3 lay over until printed, and

It was so ordered.

Senator Page moved that the calendar clerk and chairman of the committee on printing be authorized to make some arrangement to have bills printed promptly.

Senator Frank explained that these bills were only reported this morning.

Senator Page insisted that this matter should be acted on at once.

Senator Sims thought that the printing committee should first examine the law and the contract with the public printer.

Senator Page withdrew his motion and asked that the printing committee make such examination and report to the senate.

Senator Stephens called up Senate bill No. 49.

Read first time with report of committee that it do pass with amendments.

Amendments adopted.

Senator Stephens moved that the constitutional rule be suspended, and that the bill pass to a second and third reading and final passage.

Adopted by the following vote:

YEAS—25.

Clemens,	Harrison,	Seale,
Crane,	Ingram,	Simkins,
Carter,	Johnson,	Stephens,
Cranford,	Kearby,	Sims,
Frank,	Lubbock,	Tyler,
Finch,	McKinney,	Townsend,
Glasscock,	Potter,	Whatley,
Garwood,	Page,	Weisiger.

ABSENT—7.

Atlee,	Clark,	Maetze,
Burney,	Kimbrough,	Mott,
		Pope.

On the question of the final passage of the bill Senator Johnson thought the question out of order. The constitutional rule was suspended for the second reading only, and should be again suspended for the third reading.

Bill ordered engrossed.

Senator Stephens moved to again suspend the constitutional rule, which was

Adopted by the following vote:

YEAS—24.

Mr. President,	Kearby,
Clemens,	Kimbrough,
Crane,	Lubbock,
Carter,	Maetze,
Cranford,	Potter,
Frank,	Page,
Finch,	Seale,
Glasscock,	Simkins,
Garwood,	Sims,
Harrison,	Stephens,
Ingram,	Tyler,
Johnson,	Whatley.

ABSENT—7.

Atlee,	Mott,
Burney,	Pope,
Clark,	Townsend.
McKinney,	

Senate bill No. 49, entitled "An act to diminish the civil and criminal jurisdiction of the county court of Ochiltree county,"

Passed by the following vote:

YEAS—26.

Clemens,	Lubbock,
Crane,	McKinney,
Carter,	Maetze,
Cranford,	Potter,
Finch,	Page,
Frank,	Seale,
Glasscock,	Simkins,
Garwood,	Stephens,
Harrison,	Sims,
Ingram,	Tyler,
Johnson,	Townsend,

Kimbrough, Whatley.
Kearby, Weisiger.

NAYS—none.

ABSENT—5.

Atlee, Mott,
Burney, Pope.
Clark,

On motion of Senator Carter the Senate went into executive session.

(IN SENATE.)

The following appointments by the governor were announced as confirmed by the Senate:

L. L. Foster to be commissioner of agriculture, insurance, statistics and history.

G. W. Smith to be secretary of State.

Dr. R. M. Swearingen to be State health officer.

W. H. Mabry to be adjutant general.

On motion of Senator Kearby, Senate bill No. 41, entitled "An act to prohibit prize fighting, and prohibit any person from acting as second or referees, or to knowingly aid or assist those thus offending, and to provide penalties therefor," was taken up out of its regular order, and the bill was read the first time.

The question being, shall the bill be passed to a second reading, Senator Stephens offered the following amendment:

Amend by adding the following as the enacting clause, after the words "section 1," said amendment to read as follows:

"Be it enacted by the Legislature of the State of Texas, That"

Adopted.

Senator Frank offered the following amendment:

Amend line 5 by striking out the figures "\$100," and insert "\$500."

Senator Page offered the following substitute for the amendment:

Amend section 1, line 5, by striking out "100" and insert "500," and by striking out in line 5 "1000" and insert "5000."

Which was accepted by Senator Frank and was

Adopted.

Senator Carter offered to amend the bill as follows:

Amend the bill by inserting after the word "gloves," line 2, "dog, bear fight."

Senator Glasscock offered the following amendment to the amendment:

Amend by adding "bull fights" to Senator Carter's amendment.

GLASSCOCK.

Accepted by Senator Carter.

Senator Kearby moved to lay the amendment on the table.

Senator Carter moved to commit the bill to Judiciary committee No. 2.

Senator Townsend favored the commitment of the bill.

Senator Simkins raised the point of order that the motion to lay on the table had precedence of the motion to commit.

The chair ruled the point of order not well taken, and stated the question to be on the motion to commit.

Senator Sims offered the following amendment:

Amend by adding before the word "shall" on line 4, page 1, section 1, the words as follows: "Or shall bet anything of value on any prize fight in this State."

Senator Townsend offered the following substitute for the amendment:

Amend by adding: "Said penalty shall also be visited on any person who shall permit bulls to fight within his enclosures, or break down the pasture fence of another; and the punishment shall be doubled if violated in the spring of the year."

Which was afterwards withdrawn by him.

Senator Simkins raised the point of order that the amendment of Senator Sims could not be acted upon until the amendments which had already been offered were disposed of.

The chair ruled,

First—That the amendment of Senator Carter could not be acted on until the motion to lay it on the table was acted upon.

2. That the motion to commit the bill had precedence of the motion to lay on the table.

3. That a motion to amend the bill was in order before the motion to commit was voted on, and therefore held the point of order not well taken.

The amendment of Senator Sims was

Lost.

The chair then stated that the question was then on the adoption of the motion by Senator Carter to commit the bill

Senator Page moved to lay that motion on the table.

The yeas and nays being called for the motion to lay on the table was adopted by the following vote:

YEAS—20.

Clemens,	Lubbock,
Crane,	McKinney,
Cranford,	Potter,
Frank,	Page,
Finch,	Seale,
Garwood,	Simkins,
Ingram,	Stephens,
Johnson,	Sims,
Kearby,	Tyler,
Kimbrough,	Whatley.

NAYS—6.

Carter,	Maetze,
Glasscock,	Townsend,
Harrison,	Weisiger.

ABSENT—2.

Atlee,	Clark.
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The question then recurred upon motion of Senator Kearby to lay the amendment of Senator Carter on the table, which motion was adopted by the following vote:

YEAS—16.

Clemens,	McKinney,
Crane,	Potter,
Cranford,	Page,
Frank,	Sims,
Finch,	Tyler,
Ingram,	Townsend,
Kearby,	Whatley,
Kimbrough,	Weisiger.

NAYS—10

Carter,	Lubbock,
Glasscock,	Maetze,
Garwood,	Seale,
Harrison,	Simkins,
Johnson,	Stephens.

ABSENT—2.

Mott,	Pope.
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Senator Harrison moved to amend by striking out the emergency clause.

Senator Simkins offered as a substitute therefor the following amendment:

"Strike out all after and including line 8."

The substitute was accepted by Senator Harrison, and was then adopted.

Senator Kearby offered the following amendment:

Amend by adding thereto sections 2 and 3, as follows:

Section 2. Prize fighting prohibited by this act is hereby defined to be any fighting, boxing or sparring, with or without gloves, in any public place, and a public place as herein mentioned is defined to be any place where two or more persons congregate to witness such fighting, boxing or sparring, or where any fight occurs for which gate fees, or other fees, are charged, or any reward is offered, or any wager is made on the result of such fight.

Section 3. Provided further, that no conviction or acquittal under the provisions of this act shall be so construed so as to prohibit a prosecution or conviction of such person for the violation of any other provision of the penal code.

Senators Lubbock and Carter opposed the amendment.

Senator Page offered an amendment to the amendment offered by Senator Kearby the following:

Amend by adding at the end of section 1 the following: "Provided that nothing in this section shall be construed to apply to ordinary athletic exercise, such as pursued in some places for amusement."

Senator Crane offered as a substitute for Senator Page's amendment the following:

Amend by striking out all after the word "any" in the fifth line and before the word "fight" in line eleven.

Which was adopted in lieu of the amendment.

The amendment as thus substituted was adopted.

Senator Carter moved to adjourn, which motion was lost.

The amendment offered by Senator Kearby, as amended, was then adopted.

Senator Frank offered to amend as follows:

Amend by adding after line 5 the following: "By imprisonment in the county jail for a term of not less than six months nor more than twelve months."

Which was adopted.

Senator Page offered the following amendment:

Amend section 1 by adding at the end of same the following: "for each and every offense."

Adopted.

Senator Glasscock moved to amend the caption of the bill by inserting after the word "prohibit" the words "and define."

Adopted.

Senator Sims offered the following amendment:

"Amend by adding thereto section 2, as follows:

Section 2. Prize fighting within the meaning of this act shall be where the fight is by professional fighters by agreement for money or other thing of value."

Pending the consideration of which the Senate, on motion of Senator Crane, adjourned to 10 o'clock to-morrow morning, by the following vote:

YEAS—15.

Crane,	Page,
Carter,	Seale,
Glasscock,	Simkins,
Garwood,	Sims,
Harrison,	Tyler,
Ingram,	Townsend,
McKinney,	Whatley,
Maetze,	

NAYS—11.

Clemens,	Kimbrough,
Cranford,	Lubbock,
Frank,	Potter,
Finch,	Stephens,
Johnson,	Weisiger,
Kearby,	

TENTH DAY.

SENATE CHAMBER,
AUSTIN, Jan. 23, 1891.

Senate met pursuant to adjournment.

Roll called.

Quorum present.

The following Senators answering to names:

PRESENT.

Atlee,	Johnson,	Pope,
Clemens,	Kearby,	Simkins,
Crane,	Kimbrough,	Stephens,
Carter,	Lubbock,	Sims,
Cranford,	McKinney,	Tyler,
Frank,	Maetze,	Whatley,
Finch,	Potter,	Weisiger,
Glasscock,	Page,	

ABSENT.

Barney,	Harrison,	Seale,
Clark,	Ingram,	Townsend,
Garwood,	Mott,	

Prayer by the chaplain, Dr. Smoot.

On motion of Senator Kearby the reading of the Journal was dispensed with.

Senator Finch made the following report:

COMMITTEE ROOM,
Austin, Jan. 22, 1891.

Hon. Geo. C. Pendleton, President of the Senate:

Your committee on Public Printing, in response to a resolution of the Senate inquiring into the delay in printing Senate bills, and also as to whether there is a contract for printing the same, beg leave to report:

That we have made careful investigation and find that the contracting printer, Mr. Hutchings, has printed

all bills with reasonable dispatch after they had been placed in his hands; and further find that he has a contract with the State Printing board for printing all Senate bills and we advise that there be no change made in the same.

All of which is respectfully submitted.

FINCH,

Chairman of Committee on Public Printing.

On motion of Senator Kearby the report was adopted and ordered spread on the Journal.

Senator Tyler made the following report:

COMMITTEE ROOM,
Austin, Jan. 22, 1891.

Hon. George C. Pendleton, President of the Senate:

Your Judiciary committee No. 2, to whom was referred

Senate bill No. 74, entitled "An act to amend article 558, title 7, chapter 4, of the Code of Criminal Procedure," have had the same under consideration, and instruct me to report it back to the Senate with the recommendation that it do pass with the following amendment:

Amend by adding subdivisions 4 and 5 at the end of the bill, to-wit:

4. "That the witness is not absent by the procurement or consent of the party applying therefor."

5. "That the application is not made for delay."

All of which is respectfully submitted.

TYLER,

Chairman.

Senator Tyler made the following report:

COMMITTEE ROOM,
Austin, Jan. 22, 1891.

Hon. Geo. C. Pendleton, President of the Senate:

Your Judiciary committee No. 2, to whom was referred

Senate bill No. 62 entitled "An act to amend article 459, chapter 3, title 14 of the penal code of the State of Texas,"

Have had the same under consideration and instruct me to report it back to the Senate with the recommendation that it do not pass.

All of which is respectfully submitted.

TYLER,

Chairman.